IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3638 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ABDULKHALIK AHMED PATEL - Petitioner(s)
Versus
SURAT MUNICIPAL CORPORATION & 3 - Respondent(s)

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Appearance :
MR NK MAJMUDAR for Petitioner
MR PRASHANT G DESAI for Respondent(s) : 1 - 2.
MR SANJAY A MEHTA for Respondent(s) : 3 - 4.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 27/03/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Mr. Nirav K. Majmudar, learned counsel for the petitioner, Mr. P.G. Desai, learned counsel for the respondent nos. 1 and 2 and Mr. Sanjay Mehta, learned counsel for the respondent nos. 3 and 4.

2. On 25.8.2004, while admitting the petition and issuing Rule, this Court directed the petitioner that further amount of Rs. 4.00 lacs shall be deposited by the petitioner, this amount will include the amount, if any, otherwise payable by the bank to the Corporation for the disputed period between 1994 and 1996 and ultimately if it is found that it was the bank's liability to pay such amount, the amount to be deposited now by the petitioner shall be adjusted against the amount payable by the petitioner to the bank as per this order. From the texture and tenor of the order dated 25.8.2004, it would clearly appear that the Court required the petitioner to deposit a sum of Rs. 4.00 lacs in furtherance to what had already been voluntarily deposited by the petitioner.

3. Mr. P.G. Desai, learned counsel appearing for the respondent nos. 1 and 2 informed us that despite the mandatory order, the petitioner had not made the deposit. Mr. N.K. Majmudar, learned counsel appearing for the petitioner submits that the order passed on

25.8.2004 has not been complied with. As the order dated 25.8.2004 has not been complied with, we refuse to proceed with the matter and dismiss the petition. The petition is accordingly dismissed. Rule is discharged. Interim relief, if any, stands vacated. No costs.

(***R. S. Garg, J.***)

(***Ravi R. Tripathi, J.***)

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